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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,019	03/16/2005	Tadayoshi Ito	038440-0120	9311
22428 7590 11/12/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER HERRERA, DIEGO D	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 11/12/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,019	Applicant(s) ITO, TADAYOSHI	
	Examiner DIEGO HERRERA	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 11 and 14 are objected to because of the following informalities: please amend preamble of claims either they are method claims or a computer readable medium reciting program to be executed to produce outcome claims. Appropriate correction is required.

Claims 12, 13, and 15 are objected to because of the following informalities: the examiner does not follow the dependence of claims whether they belong to a computer readable medium or a method type claims. Appropriate correction is required.

Claims 5, 10, and 15 are objected to because of the following informalities: the word "remainder" is misspelled, also in specification. There is no reminder as to a division between two numbers. Appropriate correction is required.

Claim Rejections - 35 USC § 101

Claims 6 - 10 are rejected under 35 U.S.C. 101 because these claims do not fall into one of the statutory categories of invention recited in 35 USC § 101, see also MPEP § 2106.IV.B, in the actual body of the claim there is no indication or statement stating what particular apparatus or transform underlying subject matter to a different state or thing is performing, determining, providing, checking, setting, sending and representing, hence, the claims are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

Claims 11-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The instant specification provides for a 'program' and a 'computer' however fails to provide for any 'computer readable medium' as presently claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-9, and 11-14 are rejected under 35 U.S.C. 102 (b) as being anticipated by Chao et al. (US 6178329 B1).

Regarding claim 1. A radio cell station apparatus in a mobile communication system (abstract, title, fig. 4a-11b, col. 2 lines: 43-46, col. 3 lines: 43-57, Chao et al. teaches communication system and base station detail), signals received in said mobile communication system including already-known reference signals (col. 4 lines: 5-16, 37-56, Chao et al. teaches neighboring base stations sharing information about channel pairing hence already-known reference signals through communication network system established), comprising:

search means for searching for a reference signal already used in a neighboring cell station (col. 4 lines: 11-36, col. 5 lines: 41-60, Chao et al. teaches search means and more like receiving means about neighboring base stations information about signals used in said neighboring cell);

storage means for storing the reference signal detected by said search means (col. 4 lines: 37-56, Chao et al. teaches memory in apparatus of base station) and reference signal allocation means for allocating (col. 3 lines: 50-57, Chao et al. teaches assigning means from base stations for signals requested by mobile terminals or mobile devices), when a connection request is received from a terminal device, a reference signal different from the reference signal stored in said storage means (col. 6 lines: 55—col. 7 lines: 27, Chao et al. teaches when request is made by mobile device channel availability data would be updated, hence, storing different reference signals in storage

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means of base stations).

Regarding claim 4. A radio cell station apparatus in a mobile communication system (abstract, title, fig. 4a-11b, col. 2 lines: 43-46, col. 3 lines: 43-57, Chao et al. teaches communication system and base station detail), signals transmitted/received in said mobile communication system including already-known reference signals (col. 4 lines: 5-16, 37- 56, Chao et al. teaches neighboring base stations sharing information about channel pairing hence already-known reference signals through communication network system established), comprising:

storage means for storing a plurality of reference signals different from each other (col. 4 lines: 37-56, Chao et al. teaches memory in apparatus of base station); and
reference signal allocation means for randomly selecting (col. 3 lines: 50-57, Chao et al. teaches assigning means from base stations for signals requested by mobile terminals or mobile devices), when a connection request is received from a terminal device, a reference signal from said storage means based on a cell station number assigned to each cell station and allocating the reference signal to said terminal device (col. 6 lines: 55—col. 7 lines: 27, Chao et al. teaches when request is made by mobile device channel availability data would be updated, hence, storing different reference signals in storage means of base stations).

Regarding claim 6. A reference signal allocation method performed by a radio cell station apparatus in a mobile communication system (abstract, title, fig. 4a-11b, col. 2 lines: 43-46, col. 3 lines: 43-57, Chao et al. teaches communication system and base station detail), signals received in said mobile communication system including already-

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known reference signals (col. 4 lines: 5-16, 37- 56, Chao et al. teaches neighboring base stations sharing information about channel pairing hence already-known reference signals through communication network system established), comprising the steps of: searching for a reference signal already used in a neighboring cell station (col. 4 lines: 11-36, col. 5 lines: 41-60, Chao et al. teaches search means and more like receiving means about neighboring base stations information about signals used in said neighboring cell); storing said reference signal detected (col. 4 lines: 37-56, Chao et al. teaches memory in apparatus of base station); and allocating, when a connection request is received from a terminal device (col. 6 lines: 55—col. 7 lines: 27, Chao et al. teaches when request is made by mobile device channel availability data would be updated, hence, storing different reference signals in storage means of base stations), a reference signal different from said reference signal stored (col. 4 lines: 37-56, Chao et al. teaches memory in apparatus of base station).

Regarding claim 9. A reference signal allocation method performed by a radio cell station apparatus in a mobile communication system (abstract, title, fig. 4a-11b, col. 2 lines: 43-46, col. 3 lines: 43-57, Chao et al. teaches communication system and base station detail), signals transmitted/received in said mobile communication system including already-known reference signals (col. 4 lines: 5-16, 37- 56, Chao et al. teaches neighboring base stations sharing information about channel pairing hence already-known reference signals through communication network system established), comprising the steps of: storing a plurality of reference signals different from each other (col. 4 lines: 37-56,

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Chao et al. teaches memory in apparatus of base station); and randomly selecting, when a connection request is received from a terminal device, a reference signal from said plurality of reference signals based on a cell station number assigned to each cell station (col. 10 lines: 14-42, Chao et al. teaches assigning channel pairs based on a specific particular base station) and allocating the reference signal to said terminal device (col. 9 lines: 36-57, Chao et al. teaches updating assignments and availability of channel pairs and mobile terminals assigned with what base station has available as far as channel pairs for communication).

Regarding claim 11. A computer readable medium containing program code which, when executed, causes a radio cell station apparatus in a mobile communication system to execute a reference signal allocation method (col. 7 lines: 19-26, Chao et al. teaches a processor executing programs embedded in memory), signals received in said mobile communication system including already-known reference signals (col. 4 lines: 5-16, 37- 56, Chao et al. teaches neighboring base stations sharing information about channel pairing hence already-known reference signals through communication network system established), and said method comprising the steps of: searching for a reference signal already used in a neighboring cell station (); storing said reference signal detected (col. 4 lines: 11-36, col. 5 lines: 41-60, Chao et al. teaches search means and more like receiving means about neighboring base stations information about signals used in said neighboring cell); and allocating, when a connection request is received from a terminal device, a reference signal different from said reference signal stored (col. 9 lines: 36-57, Chao et al. teaches

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updating assignments and availability of channel pairs and mobile terminals assigned with what base station has available as far as channel pairs for communication).

Regarding claim 14. A computer readable medium containing program code which, when executed, causes a radio cell station apparatus in a mobile communication system to execute a reference signal allocation method (col. 7 lines: 19-26, Chao et al. teaches a processor executing programs embedded in memory), signals transmitted/received in said mobile communication system including already-known reference signals (col. 4 lines: 5-16, 37- 56, Chao et al. teaches neighboring base stations sharing information about channel pairing hence already-known reference signals through communication network system established), and said method comprising the steps of:

storing a plurality of reference signals different from each other (col. 4 lines: 37-56, Chao et al. teaches memory in apparatus of base station); and randomly selecting, when a connection request is received from a terminal device, a reference signal from said plurality of reference signals based on a cell station number assigned to each cell station (col. 10 lines: 14-42, Chao et al. teaches assigning channel pairs based on a specific particular base station) and allocating the reference signal to said terminal device (col. 9 lines: 36-57, Chao et al. teaches updating assignments and availability of channel pairs and mobile terminals assigned with what base station has available as far as channel pairs for communication).

Consider claim 2. The radio cell station apparatus according to claim 1, wherein before the connection request is received from said terminal device, said search means

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receives in advance a communication signal communicated between said neighboring cell station and a terminal device communicating with said neighboring cell station (col. 8 lines: 14-29, Chao et al. teaches before receiving request from mobile device having ACO table checked in blocks to see if channel pairs are available for mobile device), and analyzes a reference signal in use from the received communication signal (col. 8 lines: 14-29, Chao et al. teaches analyzing channel pairs), and said storage means stores and holds said analyzed reference signal (ACO table).

Consider claim 3. The radio cell station apparatus according to claim 2, wherein said search means searches for the reference signal used in said neighboring cell station for each traffic slot allocated to said terminal device (col. 8 lines: 14-29, Chao et al. teaches before receiving request from mobile device having ACO table checked in blocks to see if channel pairs are available for mobile device).

Consider claim 7. The reference signal allocation method according to claim 6, further comprising the steps of:

before the connection request is received from said terminal device (col. 8 lines: 14-29, Chao et al. teaches before receiving request from mobile device having ACO table checked in blocks to see if channel pairs are available for mobile device), receiving in advance a communication signal communicated between said neighboring cell station (ACO table taught by Chao et al. is received with advanced notice of said neighboring cells information about channel pairs) and a terminal device communicating with said neighboring cell station (col. 8 lines: 30-38, Chao et al. teaches array about information of mobile terminal device communicating with said neighboring cell station), and

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analyzing a reference signal in use from the received communication signal (col. 8 lines: 14-29, Chao et al. teaches analyzing channel pairs); and
storing said analyzed reference signal (col. 8 lines: 14-29, Chao et al. teaches analyzing channel pairs).

Consider claim 8. The reference signal allocation method according to claim 7, further comprising the step of searching for the reference signal used in said neighboring cell station for each traffic slot allocated to said terminal device (col. 8 lines: 14-29, Chao et al. teaches before receiving request from mobile device having ACO table checked in blocks to see if channel pairs are available for mobile device).

Consider claim 12. The reference signal allocation method ~~program~~ according to claim 11, said method further comprising the steps of:

before the connection request is received from said terminal device, receiving in advance a communication signal communicated between said neighboring cell station (ACO table taught by Chao et al. is received with advanced notice of said neighboring cells information about channel pairs) and a terminal device communicating with said neighboring cell station (col. 8 lines: 30-38, Chao et al. teaches array about information of mobile terminal device communicating with said neighboring cell station), and
analyzing a reference signal in use from the received communication signal (col. 8 lines: 14-29, Chao et al. teaches analyzing channel pairs); and
storing said analyzed reference signal (fig. 4a, 6, col. 8 lines: 14-52, Chao et al. teaches memory for storing analyzed channel pairs).

Consider claim 13. The reference signal allocation method ~~program~~ according to claim

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12, said method further comprising the step of searching for the reference signal used in said neighboring cell station for each traffic slot allocated to said terminal device (col. 8 lines: 14-29, Chao et al. teaches before receiving request from mobile device having ACO table checked in blocks to see if channel pairs are available for mobile device).

Allowable Subject Matter

Claims 5, 10, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and the 101 and 112 rejections are overcome.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617